

SENATE BILL No. 379

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3.5; IC 5-14-3.6; IC 5-14-3.7.

Synopsis: Release of Social Security numbers. Prohibits an agency of the state or a city, town, county, or township from releasing the Social Security number of an individual unless: (1) required by state law, federal law, or court order; (2) authorized in writing by the individual; or (3) the requestor is a commercial entity that has a legitimate business or professional use for the information and is qualified by the attorney general. Makes it a Class D felony to knowingly make a false representation to obtain a Social Security number or for an agency employee to knowingly disclose a Social Security number.

Effective: Upon passage; July 1, 2004.

Hershman, Craycraft

January 12, 2004, read first time and referred to Committee on Transportation and Homeland Security.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 379

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-14-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]:

4 **Chapter 3.5. Release of Social Security Number**

5 **Sec. 1. As used in this chapter, "local agency" means an**
6 **authority, a board, a branch, a commission, a committee, a**
7 **department, a division, or another instrumentality of the executive,**
8 **including the administrative, department of a city, town, county, or**
9 **township.**

10 **Sec. 2. As used in this chapter, "state agency" means an**
11 **authority, a board, a branch, a commission, a committee, a**
12 **department, a division, or another instrumentality of the executive,**
13 **including the administrative, department of state government.**
14 **Except as provided in subdivision (4), the term does not include the**
15 **judicial or legislative department of state government. The term**
16 **includes the following:**

17 **(1) A state elected official's office.**



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(2) A state educational institution (as defined in IC 20-12-0.5-1).

(3) A body corporate and politic of the state created by state statute.

(4) The Indiana lobby registration commission established by IC 2-7-1.6-1.

Sec. 3. Except as provided in section 4 or 5 of this chapter, a state or local agency may not disclose an individual's Social Security number.

Sec. 4. Unless prohibited by state statute, federal statute, or court order, a state or local agency may disclose the Social Security number of an individual to a state, local, or federal agency.

Sec. 5. A state or local agency shall disclose the Social Security number of an individual if:

- (1) the disclosure of the Social Security number is expressly required by state law, federal law, or a court order;
- (2) the individual expressly consents in writing to the disclosure of the individual's Social Security number; or
- (3) the requirements of IC 5-14-3.6 are satisfied.

Sec. 6. A state or local agency complies with section 3 of this chapter if the agency:

- (1) removes; or
- (2) completely and permanently obscures;

a Social Security number on a public record before disclosing the public record.

Sec. 7. If a state or local agency releases a Social Security number in violation of this chapter, the agency shall provide notice to the person whose Social Security number was disclosed in the manner set forth in IC 5-14-3.7.

SECTION 2. IC 5-14-3.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 3.6. Release of Social Security Number to a Commercial Entity

Sec. 1. As used in this chapter, "local agency" has the meaning set forth in IC 5-14-3.5-1.

Sec. 2. As used in this chapter, "state agency" has the meaning set forth in IC 5-14-3.5-2.

Sec. 3. A state or local agency shall disclose an individual's Social Security number to a commercial entity that:

- (1) is qualified by the attorney general; and
- (2) makes a written request for the disclosure of information;

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as set forth in this chapter.

Sec. 4. A commercial entity that applies for qualification with the attorney general shall use the form prescribed by the attorney general. An applicant must verify the application for qualification.

Sec. 5. The application for qualification must include the following information:

- (1) Name of the commercial entity.**
- (2) The officers of the commercial entity.**
- (3) Information regarding a contractor or subcontractor of the commercial entity that will have access to the Social Security numbers obtained by the commercial entity, including whether a person with access to the information is confined in a correctional facility.**
- (4) A statement of the activities of the commercial entity for which disclosure of the information is necessary.**

Sec. 6. (a) A commercial entity must be qualified by the attorney general under this chapter if the commercial entity, its agents, employees, contractors, or subcontractors are engaged in the performance of a commercial activity that obtains information, including Social Security numbers, from a state or local agency for any of the following legitimate business or professional uses:

- (1) Verification of the accuracy of personal information submitted in a commercial transaction.**
- (2) Use in a civil, a criminal, or an administrative proceeding.**
- (3) Use in law enforcement activities or the investigation of crimes.**
- (4) An insurance purpose.**
- (5) Detecting or preventing fraud.**
- (6) The matching, verification, or retrieval of information.**
- (7) Research activities.**

(b) A legitimate business or professional use does not include the disclosure or bulk sale of Social Security numbers to a member of the general public.

Sec. 7. The attorney general shall approve or deny an application for qualification not later than thirty (30) days after receiving the application. During the thirty (30) day approval review period, the attorney general may investigate the applicant to determine whether the applicant satisfies the requirements of this chapter.

Sec. 8. (a) The attorney general may deny the application or revoke the qualification of a commercial entity for:

- (1) failing to complete the application as set forth in section 5**

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of this chapter;

(2) failing to meet the requirements set forth in section 6 of this chapter;

(3) using a Social Security number obtained under this chapter from a state agency in an unlawful or fraudulent manner; or

(4) disclosing or selling a Social Security number to a member of the general public.

(b) The attorney general may not revoke or deny the qualification of a commercial entity until:

(1) the commercial entity is notified in writing by the attorney general of the grounds of the proposed denial or revocation; and

(2) the commercial entity is provided with an opportunity to be heard on the proposed denial or revocation.

Sec. 9. The attorney general may require a qualified commercial entity to renew its qualification with the attorney general's office, but not more than every two (2) years.

Sec. 10. (a) A state or local agency shall disclose a Social Security number to a commercial entity that is qualified under this chapter if the commercial entity completes a written request for the information on a form prescribed by the attorney general.

(b) A written request to a state or local agency must include a statement, verified by an authorized officer, employee, or agent of the commercial entity, that the Social Security numbers will be used only in the normal course of business for a legitimate business or professional use as set forth in section 6 of this chapter.

Sec. 11. The attorney general shall establish a procedure that a state or local agency may use to verify that an entity has been qualified by the attorney general.

Sec. 12. This chapter does not prohibit the disclosure of Social Security numbers to a business or professional entity that is:

(1) qualified under this chapter; and

(2) engaged in a legitimate business or professional purpose as described in section 6 of this chapter.

A state or local agency may request other information that is reasonably necessary to verify the identity of the entity requesting the Social Security numbers.

Sec. 13. This chapter does not prevent the reporting of Social Security numbers to or from a consumer reporting agency (as defined in 15 U.S.C. 1681a) or to a debt collector (as defined in 15 U.S.C. 1692a).

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1 **Sec. 14. A person who knowingly makes a false representation**
 2 **to the attorney general or to a state or local agency to obtain a**
 3 **Social Security number from the state or local agency commits a**
 4 **Class D felony.**

5 **Sec. 15. An employee of a state or local agency who knowingly**
 6 **discloses a Social Security number in violation of this chapter**
 7 **commits a Class D felony.**

8 **Sec. 16. A trial court shall report all convictions under this**
 9 **chapter to the attorney general. If an employee, an agent, or a**
 10 **contractor of a commercial entity that is qualified under this**
 11 **chapter is convicted of an offense under this chapter for actions**
 12 **taken during the course of the employment, agency, or contract,**
 13 **the attorney general may revoke the qualification of the**
 14 **commercial entity for not more than two (2) years.**

15 **Sec. 17. Not later than January 31 of each year, a state or local**
 16 **agency shall file a report with the secretary of state and the**
 17 **executive director of the legislative services agency that includes:**

18 (1) a listing of all commercial entities that:

19 (A) are qualified under this chapter; and

20 (B) have requested Social Security numbers during the
 21 preceding calendar year; and

22 (2) the purpose or purposes stated by each listed commercial
 23 entity for its need for receiving Social Security numbers.

24 **The report to the executive director must be in an electronic**
 25 **format under IC 5-14-6.**

26 **Sec. 18. If a state or local agency releases a Social Security**
 27 **number in violation of this chapter, the agency shall provide notice**
 28 **to the person whose Social Security number was disclosed as set**
 29 **forth in IC 5-14-3.7.**

30 **Sec. 19. The attorney general may adopt rules under IC 4-22-2**
 31 **that the attorney general considers necessary to carry out this**
 32 **chapter.**

33 **SECTION 3. IC 5-14-3.7 IS ADDED TO THE INDIANA CODE**
 34 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
 35 **JULY 1, 2004]:**

36 **Chapter 3.7. Notice of Security Breach**

37 **Sec. 1. As used in this chapter, "breach of the security of the**
 38 **system" means unauthorized acquisition of computerized data that**
 39 **compromises the security, confidentiality, or integrity of personal**
 40 **information maintained by a state or local agency. The term does**
 41 **not include good faith acquisition of personal information by an**
 42 **agency or employee of the agency for the purposes of the agency,**

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1 if the personal information is not used or subject to further
2 unauthorized disclosure.

3 Sec. 2. As used in this chapter, "local agency" has the meaning
4 set forth in IC 5-14-3.5-1.

5 Sec. 3. As used in this chapter, "personal information" means:

6 (1) an individual's:

7 (A) first name and last name; or

8 (B) first initial and last name; and

9 (2) at least one (1) of the following data elements:

10 (A) Social Security number.

11 (B) Driver's license number or identification card number.

12 (C) Account number, credit card number, debit card
13 number, security code, access code, or password of an
14 individual's financial account.

15 The term does not include publicly available information that is
16 lawfully made available to the public from records of a federal
17 agency, state agency, or local agency.

18 Sec. 4. As used in this section "state agency" has the meaning set
19 forth in IC 5-14-3.5-2.

20 Sec. 5. (a) Any state or local agency that owns or licenses
21 computerized data that includes personal information shall disclose
22 a breach of the security of the system following discovery or
23 notification of the breach to any state resident whose unencrypted
24 personal information was or is reasonably believed to have been
25 acquired by an unauthorized person.

26 (b) The disclosure of a breach of the security of the system shall
27 be made:

28 (1) without unreasonable delay;

29 (2) consistent with:

30 (A) the legitimate needs of law enforcement, as described
31 in section 7 of this chapter; and

32 (B) any measures necessary to:

33 (i) determine the scope of the breach; and

34 (ii) restore the reasonable integrity of the data system.

35 Sec. 6. (a) This section applies to a state or local agency that
36 maintains computerized data that includes personal information
37 that the state or local agency does not own.

38 (b) If personal information was or is reasonably believed to have
39 been acquired by an unauthorized person, the state or local agency
40 shall notify the owner or licensee of the information of a breach of
41 the security of the system immediately following discovery. The
42 agency shall provide the notice to state residents as required under

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section 5 of this chapter.

Sec. 7. The notification required by this chapter:

- (1) may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation; and
- (2) shall be made after the law enforcement agency determines that it will not compromise the investigation.

Sec. 8. Except as provided in section 9 of this chapter, a state or local agency may provide notice:

- (1) in writing; or
- (2) by electronic mail, if the individual has provided the state or local agency with the individual's electronic mail address.

Sec. 9. (a) This section applies if a state or local agency demonstrates that:

- (1) the cost of providing notice is at least two hundred fifty thousand dollars (\$250,000);
- (2) the number of persons to be notified is at least five hundred thousand (500,000); or
- (3) the agency does not have sufficient contact information;

the state or local agency may use an alternate form of notice set forth in subsection (b).

(b) A state or local agency may provide the following alternate forms of notice if authorized by subsection (a):

- (1) Conspicuous posting of the notice on the state or local agency's web site, if the state or local agency maintains a web site.
- (2) Notification to major statewide media.

SECTION 4. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 5-14-3.5, IC 5-14-3.6, and IC 5-14-3.7, all as added by this act, a state or local agency is not required to comply with IC 5-14-3.5, IC 5-14-3.6, or IC 5-14-3.7, all as added by this act, until July 1, 2005.

(b) This SECTION expires July 2, 2005.

SECTION 5. [EFFECTIVE UPON PASSAGE]: (a) Notwithstanding IC 5-14-3.6, as added by this act, the attorney general may initiate rulemaking as set forth in IC 5-14-3.6-19, as added by this act.

(b) This SECTION expires July 2, 2005.

SECTION 6. An emergency is declared for this act.

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